



STATE OF NEW MEXICO

MAGGIE TOULOUSE OLIVER

SECRETARY OF STATE

December 20, 2021

Via Electronic Mail Only

Anne Kelly, Chief Deputy Attorney General
New Mexico Attorney General Office
Email: akelly@nmag.gov

Re: Potential Criminal Transfer and Use Violation of Voter Data

Ms. Kelly:

The SOS is referring a criminal matter for investigation and prosecution related to an illegal transfer and use of voter data information pursuant to NMSA 1978, Section 1-4-5.6. It has come to our attention that a website maintained and operated by VoteRef.com has posted New Mexico voter data on its website obtained through a voter data request from our office. The voter data can be found on the following website, https://voteref.com/voters?state_name=New%20Mexico. The likely source of the voter data transfer is through David Michael Lippert at Local Labs, who was provided voter data in April of this year. We have attached our office's communication with Mr. Lippert regarding his voter data request. We believe that this data was illegally provided by Mr. Lippert or Local Labs to VoteRef.com and is being used against New Mexico state law. Swift action is needed as voter data can quickly be manipulated and used to spread election misinformation.

Facts

On or about April 15, 2021, our office provided Mike Lippert voter data. (**Exhibit A**, Com to Lippert). Mr. Lippert was provided the entire statewide voter file after he paid \$5,378.12 and signed a Voter Information Authorization Form swearing, they "will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law." (**Exhibit B**, Signed Authorization Form). On or about December 15, 2021, our office was contacted regarding the publication of New Mexico voter data information on the website VoteRef.com. After some investigation, we believe VoteRef.com obtained this voter data information illegally from Mr. Lippert or Local Labs and posted it online. Upon inspection of the VoteRef.com's website code, it includes Local Labs as a code contributor. (**Exhibit C**, Screenshot of website code on VoteRef.com).

Criminal Violations

Pursuant to NMSA 1978, Section 1-4-5.5 (C): Each requester of voter data, mailing labels or special voter lists shall sign an affidavit that the voter data, mailing labels and special voter lists shall be used for governmental or election and election campaign purposes only and shall not be made available or used for unlawful purposes. "Election campaign purposes" means relating in any way to a campaign in an election conducted by a federal, state, or local government. § 1-4-5.5(E)(1). "Governmental purposes" means noncommercial purposes relating in any way to the structure, operation, or decision-making of a federal, state, or local government. § 1-4-5.5(E)(2). We do not believe providing this personal voter data on a private website that intends to spread misinformation about the 2020 General Election meets the definition of appropriate use as either for a "governmental purpose," "election related," or "election campaign purposes."

Pursuant to NMSA 1978, Section 1-4-5.6(B), any person, organization or corporation or agent, officer, representative or employee thereof who commits unlawful use of voter data, mailing labels or special voter lists is guilty of a fourth-degree felony and upon conviction shall be fined one hundred dollars (\$100) for each and every line of voter information that was unlawfully used. Unlawful use of voter data, mailing labels or special voter lists consists of the knowing and willful use of such information for purposes prohibited by the Voter Records System Act [Chapter 1, Article 5 NMSA 1978]. § 1-4-5.6(C). Additionally, NMSA 1978, Section 1-5-22(A), states and the Signed Authorization Form quotes that, "[u]nlawful disposition of voter file consists of the willful selling, loaning, providing access to or otherwise surrendering of the voter file, duplicates of the file or a part of the file by a data processor; a data processor's agent or employee; a state or county officer; or a state or county officer's deputy, assistant, employee or agent to anyone not authorized by the Voter Records System Act to have possession of the file."

Conclusion

Our office believes the transfer and publication of this voter data is in direct violation of the Election Code. We believe that both VoteRef.com and Local Labs have violated the prohibition against "providing" voter data by posting New Mexican's private voting information online, or in Local Labs case, providing the voter data to VoteRef.com. We also believe that VoteRef.com and Local Labs have illegally "used" this voter data by publishing it on VoteRef.com. If you need anything further from our office, please do not hesitate to contact us.

Respectfully,



Sharon Pino
Deputy Secretary of State

encl:

Exhibit A, Com. to Lippert from SOS re voter data request
Exhibit B, Signed Authorization Form
Exhibit C, Screenshot of website code from VoteRef.com